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12 **UNITED STATES DISTRICT COURT**
13 **DISTRICT OF NEVADA**
14

15 DENNIS MONTGOMERY and the
MONTGOMERY FAMILY TRUST,

16 Plaintiffs,

17 vs.

18 ETREPPID TECHNOLOGIES, LLC, WARREN
19 TREPP, and the UNITED STATES
DEPARTMENT OF DEFENSE,

20 Defendants.
21

22 AND RELATED CASES.
23

) Case No. 3:06-CV-00056-PMP-VPC
) BASE FILE

) (Consolidated with Case No. 3:06-CV-
) 00145-PMP-VPC)

) **DECLARATION OF ELLYN S.**
) **GAROFALO IN SUPPORT OF MOTION**
) **OF LINER GRODE STEIN**
) **YANKELEVITZ SUNSHINE**
) **REGENSTREIF & TAYLOR LLP TO**
) **WITHDRAW AS COUNSEL OF**
) **RECORD FOR BLXWARE, LLC**

DECLARATION OF ELLYN S. GAROFALO

I, Ellyn S. Garofalo, declare as follows:

1. I am an attorney at law duly licensed to practice before this Court. I am a member of the law firm of Liner Grode Stein Yankelevitz Sunshine Regenstreif & Taylor LLP, counsel of record for Dennis Montgomery, Brenda Montgomery and the Montgomery Family Trust, and former counsel for Counter-defendants Edra D. Blixseth ("Ms. Blixseth") and Opspring LLC ("Opspring"), in this matter. As such, I have personal knowledge of the facts set forth in this Declaration and, if called as a witness, could and would testify competently to such facts under oath.

2. Third party judgment debtor Blxware, LLC was not a party to the underlying litigation, and thus Liner firm did not enter a formal appearance on Blxware's behalf. However, Blxware was a party to the Settlement Agreement with Counter-claimants Warren Trepp and eTreppid Technologies LLC (the "eTreppid Parties") executed on or about November 19, 2008. The Settlement Agreement resolved all of the Claims and Counter-claims pending in the underlying litigation.

3. The Court retained jurisdiction to enforce the Settlement Agreement.

4. Pursuant to the terms of the settlement, on December 11, 2008, Confessions of Judgment were entered against Blxware and in favor of Counter-claimants Warrant Trepp and eTreppid Technologies, LLC.

5. On or about May 28, 2009, the eTreppid parties executed a writ of execution against Blxware's assets in Washington State. As a result, it is my understanding that all of Blxware's business assets are the custody of the United States Marshal and Blxware is no longer conducting business.

6. It is also my understanding that Edra Blixseth is Blxware's controlling shareholder. On March 26, 2009, Ms. Blixseth filed a voluntary Chapter 11 petition in the United States Bankruptcy Court for the District of Montana. A true and correct copy of Ms. Blixseth's bankruptcy petition is attached and incorporated as Exhibit A hereto. Ms. Blixseth's bankruptcy

1 has now been converted from a Chapter 11 to a Chapter 7. Accordingly, all proceedings are
2 automatically stayed as to Ms. Blixseth and all post-judgment collection proceedings are within the
3 jurisdiction of the Bankruptcy Court. Presumably, Ms. Blixseth's interest in Blxware is part of the
4 bankruptcy estate.

5 7. The last known address of Blxware is 600 106th Avenue NE, Suite 210, Bellevue,
6 WA 98004. Blxware has been served with this motion.

7 I declare under penalty of perjury under the laws of the United States that the foregoing is
8 true and correct.

9 Executed on this 9th day of June 2009, at Los Angeles, California.

11 /s/ Ellyn S. Garofalo

12 Ellyn S. Garofalo

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of the Law Offices of Liner Grode Stein Yankelevitz Sunshine Regenstreif & Taylor LLP, and that on June 9, 2009, I caused to be served the within document described as **DECLARATION OF ELLYN S. GAROFALO IN SUPPORT OF MOTION OF LINER GRODE STEIN YANKELEVITZ SUNSHINE REGENSTREIF & TAYLOR LLP TO WITHDRAW AS COUNSEL OF RECORD FOR BLXWARE, LLC** on the interested parties in this action as stated below:

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☒ **[ELECTRONIC]** By filing the document(s) electronically with the U.S. District Court and therefore the court's computer system has electronically delivered a copy of the foregoing document(s) to the persons listed above at their respective email address.

I declare under penalty of perjury under the laws of the State of California and the United States of America that the foregoing is true and correct.

Executed on June 9, 2009, at Los Angeles, California.

Ellyn S. Garofalo
 (Type or print name)

/s/ Ellyn S. Garofalo
 (Signature)